

Letter of Findings: 01-20130357
Individual Income Tax
For the Year 2011

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ISSUE

I. Dependent's Social Security Numbers – Individual Income Tax.

Authority: IC § 4-1-8-1(a); IC § 4-1-8-1(a)(1); IC § 6-8.1-5-1(c); Indiana Dep't of State Revenue v. Rent-A-Center East, Inc., 963 N.E.2d 463 (Ind. 2012); Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue, 867 N.E.2d 289 (Ind. Tax Ct. 2007).

Taxpayer argues that the Department of Revenue does not have authority to require him to report on his Indiana income tax return his dependents' Social Security Numbers.

STATEMENT OF FACTS

Taxpayer is an Indiana resident. Taxpayer filed a 2011 individual income tax return. On that return, Taxpayer reported that his children qualified as "dependents." Taxpayer declined to include Social Security Numbers for his children.

The Department of Revenue ("Department") determined that Taxpayer's children did not qualify as "dependents" because the children were not fully identified. The Department's decision resulted in the assessment of additional Indiana income tax. Taxpayer disagreed with the assessments and submitted a protest to that effect. An administrative hearing was conducted by telephone during which Taxpayer explained the basis for his protest. This Letter of Findings results.

I. Dependent's Social Security Numbers – Individual Income Tax.

DISCUSSION

Taxpayer argues that the Department acted outside its authority by requiring him to report the Social Security Numbers of his children. According to Taxpayer, "The state of Indiana does not have statutory authority to require anyone to apply for or have a social security number."

Since the Department's decision denying that his children qualified as "dependents" resulted in the assessment of additional tax, it is the Taxpayer's responsibility to establish that the tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." Indiana Dep't of State Revenue v. Rent-A-Center East, Inc., 963 N.E.2d 463, 466 (Ind. 2012); Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007).

Indiana law prohibits state agencies from requiring individuals to provide Social Security Numbers. IC § 4-1-8-1(a) states in part as follows:

No individual may be compelled by any state agency, board, commission, department, bureau, or other entity of state government (referred to as "state agency" in this chapter) to provide the individual's Social Security number to the state agency against the individual's will, absent federal requirements to the contrary.

However, the provisions of this chapter do not apply to the following:

(1) Department of state revenue.

IC § 4-1-8-1(a)(1) provides an exception to the general rule and specifically authorizes the Department to require Social Security Numbers. Taxpayer's argument to the contrary is wrong.

Taxpayer argues that obtaining a Social Security Number is strictly voluntary, that the IRS erred in denying his children ITINs (Individual Taxpayer Identification Numbers) as an alternative to Social Security Numbers, that the Department of Revenue should "for[ce] the IRS to assign ITINs," that reporting Social Security Numbers violates his religious beliefs, and that reporting Social Security violates the Indiana and United States Constitutions. However, these are issues best resolved at the federal level and not within the context of a state administrative hearing.

The Department must respectfully decline the opportunity to address Taxpayer's constitutional questions or the opportunity to force the IRS to accept Taxpayer's interpretation of federal law.

Indiana law is plain. The Department is statutorily authorized to request Social Security Numbers on state income tax returns.

FINDING

Taxpayer's protest is denied.

